

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D18695  
X/kmg

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - February 29, 2008

WILLIAM F. MASTRO, J.P.  
JOSEPH COVELLO  
THOMAS A. DICKERSON  
RANDALL T. ENG, JJ.

---

2007-06987

DECISION & ORDER

Douglas S. Mellen, etc., et al., appellants,  
v Clarkstown Central School District,  
et al., respondents, et al., defendants.

(Index No. 2370/05)

---

Weiner Carroll & Strauss, Nanuet, N.Y. (Raymond S. Carroll of counsel), for appellants.

Henderson & Brennan, White Plains, N.Y. (John T. Brennan and Lauren Demase of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from an order of the Supreme Court, Rockland County (Berliner, J.), dated June 21, 2007, which granted the motion of the defendants Clarkstown Central School District and Felix Festa Middle School for summary judgment dismissing the complaint insofar as asserted against them.

ORDERED that the order is affirmed, with costs.

On their motion, the defendants Clarkstown Central School District and Felix Festa Middle School (hereinafter collectively the defendants) demonstrated their entitlement to judgment as a matter of law by establishing, prima facie, that their employees neither created the allegedly dangerous condition that caused the infant plaintiff's accident, nor had actual or constructive notice of that condition (*see Lynch v Middle Country Cent. School Dist.*, 283 AD2d 404). In opposition,

April 1, 2008

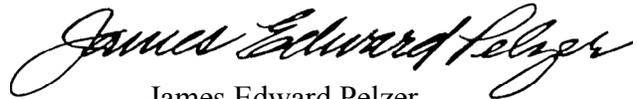
Page 1.

MELLEN v CLARKSTOWN CENTRAL SCHOOL DISTRICT

the plaintiffs failed to raise a triable issue of fact (*see Padilla v White Plains City School Dist.*, 266 AD2d 442, 442-443). Accordingly, the Supreme Court correctly granted the defendants' motion for summary judgment dismissing the complaint insofar as asserted against them.

MASTRO, J.P., COVELLO, DICKERSON and ENG, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court